THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 27391 OF 1997

Dated 31st January 2007

Between:

Jampana Krishnam Raju & others

...Petitioners

and

The Grampanchayat, Muramalla,
Rep. by its Executive Officer
& others.

...Respondents

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WRIT PETITION No. 27391 OF 1997

O R D E R:

The petitioners comprised of erstwhile Sarpanch, some members and residents of Muramalla village of I.Polavaram Mandal, East Godavari District. They seek appropriate writ or direction against the respondents, prohibiting them from assigning the land in R.S.No.26, admeasuring Ac.1-93 cents of Muramalla village, to third parties. Petitioners state that the land referred to above is a local fund poramboke, for short "the land" and has vested in the Grampanchayat, under Section 58 of the A.P. Panchayat Raj Act, 1994, (for short "the Act"). It is stated that daily market is conducted in the said land under the supervision of the Grampanchayat.

Petitioners state that the Mandal Revenue

Officer, the

4th respondent herein, issued a notice dated 26.9.1997, stating *inter alia* that the land belongs to the Government, whereas, it is being used and leased out by the Grampanchayat, treating it as its property. He proposed to allot the land to persons that were disclosed in the course of removal of encroachments on the R&B road. The 4th respondent ultimately called upon the Grampanchayat, to produce the record and prove its claim.

The Grampanchayat issued a reply, dated 27.9.1997, making specific reference to Section 58 of the Act. Thereafter, the 4th respondent addressed a letter of the same date, requiring some more clarification. The petitioners apprehend that the respondents would assign the land as proposed.

Heard the learned counsel for the petitioners, learned Government Pleader for Revenue and learned Standing Counsel for the Grampanchayat.

Section 58 of the Act is to the effect that the categories of Government Poramboke, such as, grazing grounds, thrashing floors, grave yards, cattle stands, tanks, topes, etc. vest in the Grampanchayat, subject to such restrictions, as may be prescribed. The consequences of vesting are that the Grampanchayat would have the full power to utilize the land, except of course alienation. The purpose underlying the provision

is that such of the Government properties, within the limits of village, are put to common use.

The vesting of the lands in the Grampanchayat, under Section 58 of the Act, is not absolute. Sub-section (2) thereof is clear, in this regard. In case the Government needs the land for any purpose of its own, it can take back the same, by issuing a notification. In other words, unless and until a notification is issued under sub-section (2) of Section 58, the poramboke land, which had already vested in the Grampanchayat, does not revert to the Government. The question of the respondents alienating the land either through assignment or otherwise would arise, if only a notification under sub-section (2) of Section 58 is issued. From the correspondence undertaken by the 4th respondent, it is not evident that such a notification was issued. Therefore, the petitioners can be said to have approached this court, at a premature stage. They can complain of a genuine grievance, if only a notification is issued.

For the foregoing reasons, the writ petition is disposed of, directing that the respondents shall not disable the Grampanchayat, from using the land in R.S.No.26, admeasuring Ac.1-93 cents of Muramalla village, for the benefit of the community, nor shall they assign that land to third parties, unless and until the procedure prescribed under Section 58 of the Act is followed. There shall be no order as to costs.

31st January 2007

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